

REMARKS

This Response is submitted in reply to the final Office action mailed on November 21, 2006. No fee is due in connection with this Response. The Director is authorized to charge any fees which may be required, or to credit any overpayment to Deposit Account No. 02-1818. If such a withdrawal is made, please indicate the Attorney Docket No. 115808-459 on the account statement.

Claims 1-28 are pending in this application. In the Office Action, Claims 1-28 are rejected under 35 U.S.C. §103. For the reasons set forth below, Applicants respectfully submit that the rejections should be withdrawn.

In the Office Action, Claims 1-7 and 11-28 are rejected under 35 U.S.C. §103(a) as unpatentable over U.S. Patent No. 6,669,975 to Abene ("*Abene*") and U.S. Patent No. 6,280,779 to Nadeau ("*Nadeau*") further in view of U.S. Patent No. 6,042,857 to Jones et al. ("*Jones*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claims 1, 4, 11 and 13 recite, in part, obtaining a biological sample analysis from the pet after the pet has eaten a combination of the kibble and the additive and suggesting or preparing a second pre-manufactured kibble and a second pre-manufactured or pet food additive based on the biological sample analysis and the individual pet profile. Similar to the second kibble and additive, the kibble and additive from which a biological sample analysis is obtained are also derived from the processed individual pet profile. Independent Claim 12 recites, in part, receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to the first pet food formula and creating or suggesting a pet food additive formula and a pre-manufactured kibble utilizing information obtained from the individual pet profile and biological sample analysis. Similar to the pet food additive formula and pre-manufactured kibble, the first pet food formula is based on an individual pet profile. In contrast, Applicants respectfully submit that, even if combinable, all of the claimed elements are not taught or suggested by the cited references.

The specification teaches that the analysis of the biological sample can be obtained after the pet has eaten, for a predetermined period of time, a combination of a customized pet food such as, for example, a first pre-manufactured kibble and the first custom additive produced

based on individual pet profile information. The biological sample analysis can provide information that enhances the individual pet profile information and be used to modify and refine the customized pet food product by suggesting a different pre-manufactured kibble, adding specific additive ingredients, removing specific additive ingredients, and/or changing the amount of any included additive ingredient from the pet product formulation to enable the new formulation to better meet the needs of the pet. See, specification, [0016].

Further, the biological sample analysis can determine a pet's individual reaction to a diet and the pet's ability to change its health status, including, but not limited to stool quality, immune status, oral/dental health, skeletal health, skin and coat health. See, specification, [0017]. The pet's individual reaction and ability to change may be different than a reaction of another pet in the same category to the same diet. For example, in creating pet foods for the "average" dog, digestion tests are typically conducted on a statistically large group of animals and their reactions averaged. The predictions are made on how these diets may fare for other similar dogs. Individual variations are thus excluded during creating foods for the "average" pet. It is these individual variations that can be addressed by using the claimed methods. *Id.*

Applicants respectfully submit that, even if combinable, the cited references do not disclose or suggest all of the claimed elements. For example, *Abene* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive that correlates with the processed pet profile as required, in part, by Claims 1, 4, 11 and 13. *Abene* also fails to disclose or suggest receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to the first pet food formula as required, in part, by Claim 12. The Patent Office admits same. See, Office Action, page 3, lines 9-12.

Similarly, *Nadeau* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive based on an individual pet profile as required, in part, by Claims 1, 4, 11 and 13. *Nadeau* also fails to disclose or suggest receiving an analysis from a biological sample of the pet after the pet has been eating a pet food manufactured according to a first pet food formula based on an individual pet profile as required, in part, by Claim 12. In fact, *Nadeau* and *Jones* fail to disclose or suggest any first kibble and additive or pet food based on an individual pet profile.

Although *Nadeau* is said to teach obtaining a biological sample analysis, the stool sample in *Nadeau* is taken after feeding a pet a general meat chunk-in-gravy pet food. See, *Nadeau*, column 4, lines 36-58. However, this meat chunk-in-gravy pet food is not based on any individual profile of the pet. Moreover, the method in *Nadeau* recites substantially increasing stool quality in a pet which has experienced unacceptable stool quality after ingesting primarily a meat chunk and gravy diet having unacceptable stool quality. See, *Nadeau*, column 1, lines 28-55 and Claim 1. Because *Nadeau* applies to pets already experiencing a stool problem stemming from a general pet food, any stool sample taken subsequently does not disclose or suggest a biological sample analysis taken after the pet has eaten a kibble, additive or pet food based on a pet profile.

Abene further fails to disclose or suggest obtaining or suggesting a second pre-manufactured kibble or additive based on the biological sample analysis and the individual pet profile as required, in part, by Claims 1, 4, 11 and 13. *Abene* also fails to disclose or suggest creating a pet food additive formula and suggest a pre-manufactured kibble utilizing information obtained from the individual pet profile and the biological sample analysis as required, in part, by Claim 12.

Like *Abene*, *Nadeau* also fails to disclose or suggest obtaining or suggesting a second pre-manufactured kibble or additive based on the biological sample analysis and the individual pet profile as required, in part, by Claims 1, 4, 11 and 13. *Nadeau* also fails to disclose or suggest creating a pet food additive formula and suggest a pre-manufactured kibble utilizing information obtained from the individual pet profile and the biological sample analysis as required, in part, by Claim 12. Because *Nadeau* never discloses obtaining a biological sample analysis in the manner required by the Claims, *Nadeau* cannot obtain a second pre-manufactured kibble and additive or additive formula based on both the biological sample analysis and individual pet profile.

Finally, *Jones* fails to disclose or suggest obtaining any biological sample analysis from a pet. Furthermore, because the Patent Office primarily relies on *Jones* to recite to elements of Claims dependent on independent Claim 13, *Jones* cannot remedy the deficiencies of *Abene* and *Nadeau*.

For at least the reasons discussed above, even if combinable, *Abene*, *Nadeau* and *Jones* do not teach, suggest, or even disclose all of the elements of Claims 1, 4 and 11-13 and Claims 2-3, 5-7 and 14-28 that depend from these claims, and thus, fail to render the claimed subject matter obvious.

In the Office Action, Claims 8-10 are rejected under 35 U.S.C. §103(a) as unpatentable over *Abene* and *Nadeau* further in view of U.S. Patent No. 5,340,211 to Pratt ("*Pratt*"). Applicants respectfully disagree with and traverse this rejection for at least the reasons set forth below.

Independent Claim 8 recites, in part, a means for obtaining a biological sample analysis from the pet after the pet has eaten a combination of the kibble and the additive in accordance with a processed individual pet profile and a means for suggesting a second pre-manufactured kibble and a second pet food additive formula based on the biological sample analysis and the individual pet profile. In contrast, Applicants respectfully submit that, even if combinable, the cited references fail to disclose or suggest every element of Claim 8.

Abene fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of the first kibble and additive based on an individual pet profile as required, in part, by Claim 8. The Patent Office admits same. See, Office Action, page 3, lines 9-12. Similarly, *Nadeau* fails to disclose or suggest obtaining a biological sample analysis from the pet after the pet has eaten a combination of a first kibble and additive based on an individual pet profile as required, in part, by Claim 8. Instead, the stool sample of *Nadeau* is taken after feeding a pet a general meat chunk-in-gravy pet food that is not based on any individual profile of the pet. See, *Nadeau*, column 4, lines 36-58. Because *Nadeau* applies to pets already experiencing a stool problem stemming from a general pet food, any stool sample taken subsequently does not disclose or suggest a biological sample analysis taken after the pet has eaten a kibble, additive or pet food based on a pet profile.

Abene and *Nadeau* further fail to disclose or suggest a means for suggesting a second pre-manufactured kibble or additive based on the biological sample analysis and the individual pet profile as required, in part, by Claim 8. As stated above, because *Nadeau* never discloses means for obtaining a biological sample analysis in the manner required by Claim 8, *Nadeau* does not

disclose the means for obtaining a second pre-manufactured kibble and additive or additive formula based on both the biological sample analysis and individual pet profile.

Finally, *Pratt* fails to remedy the deficiencies of the other references in regards to Claim 8. Instead, *Pratt* is entirely directed to measuring and dispensing microingredient additives into a liquid carrier. See, *Pratt*, column 3, lines 26-31. Moreover, the Patent Office primarily relies on *Pratt* to recite to Claims dependent on independent Claim 8. As a result, *Pratt* fails to disclose, suggest or even teach a means for obtaining a biological sample analysis from the pet after the pet has eaten a combination of the kibble and the additive in accordance with a processed individual pet profile and a means for suggesting a second pre-manufactured kibble and a second pet food additive formula based on the biological sample analysis and the individual pet profile as required, in part, by Claim 8.

For at least the reasons discussed above, Applicants respectfully submit that Claim 8 and Claims 9-10 that depend from Claim 8 are novel, nonobvious and distinguishable from the cited references.

Accordingly, Applicants respectfully request that the rejections of Claims 1-28 under 35 U.S.C. §103 be withdrawn.

For the foregoing reasons, Applicants respectfully request reconsideration of the above-identified patent application and earnestly solicit an early allowance of same.

Respectfully submitted,

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